

W.D.N.Y.
W.D.N.Y. B'FALO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

2003-CV-121S PL 3

RONALD DAVIDSON,

Plaintiff,

v.

ORDER
03-CV-121S

UDAY K. DESAI, M.D., et al.,

Defendants.

1. On February 16, 2005, this Court referred this matter to the Honorable Leslie G. Foschio, United States Magistrate Judge, for all pretrial matters pursuant to 28 U.S.C. § 636(b)(1).

2. On January 25, 2005, Plaintiff filed a Motion to Amend or Correct his Complaint (Docket No. 32). On January 31, 2005, Judge Foschio issued an Order directing Plaintiff to file a proposed Amended Complaint within thirty days. On March 18, 2005, Judge Foschio issued an Order granting Plaintiff an additional 90 days to file his proposed Amended Complaint.

3. On September 28, 2005, with Plaintiff never having filed his proposed Amended Complaint, Judge Foschio denied Plaintiff's Motion to Amend or Correct his Complaint.¹ On October 7, 2005, Plaintiff filed Objections to Judge Foschio's decision.

4. Pursuant to 28 U.S.C. § 636(b)(1)(A), a magistrate judge may, with certain exceptions, hear and determine any pretrial matter pending before the court. The

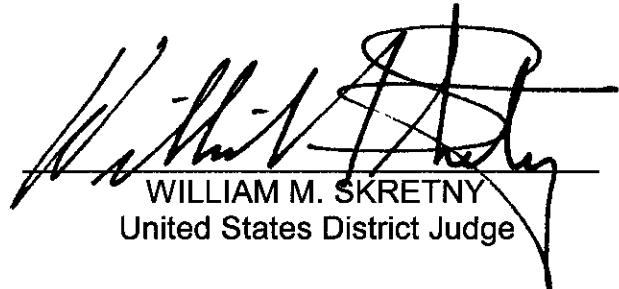
¹On August 24, 2005, Plaintiff filed an affidavit wherein he requested an indefinite extension of time to file his proposed Amended Complaint. He filed an additional affidavit on September 8, 2005. To the extent that these submissions can be construed as a Motion for Extension of Time, such a motion was implicitly denied by Judge Foschio's Order of September 28, 2005, resolving the underlying Motion to Amend or Correct the Complaint.

magistrate judge's order on such a pretrial matter will be reconsidered by the district judge only when it has been established that it is clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A). Here, Plaintiff has not established that Judge Foschio's decision is clearly erroneous or contrary to law. Finding no legal error, this Court will deny Plaintiff's Objections.

IT HEREBY IS ORDERED, that Plaintiff's Objections to Judge Foschio's September 28, 2005 decision (Docket No. 45) are DENIED.

SO ORDERED.

Dated: October 18, 2005
Buffalo, New York



WILLIAM M. SKRETNY
United States District Judge